

## **Appendix I**

# **Responses to Comments**

**Water Year 2010 Interim Flows Project  
Final  
Environmental Assessment/Initial Study**





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# Chapter 1.0

## Federal Agency Comments and Responses

This section contains a copy of a comment letter from the Federal Government agency listed in Table 1-1. Each comment in the comment letter was assigned a number, in sequential order (the letter had five comments). The numbers were then combined with an abbreviation for the Federal agency (example: FEMA-1).

Responses to the comments follow the comment letter, and are also numbered, corresponding to the numbers assigned in the letter.


**Table 1-1.**  
**Comments Received from Federal Agencies on the Environmental**  
**Assessment/Initial Study**  
**Water Year 2010 Interim Flows**

<b>Abbreviation</b>	<b>Agency</b>
FEMA	Federal Emergency Management Agency

## 1.1 Federal Emergency Management Agency

BUREAU OF RECLAMATION OFFICIAL FILE COPY RECEIVED		
JUN 18 2009		
CODE	ACTION	NAME & DATE
170	✓	AG 6/22/09

U.S. Department of Homeland Security  
FEMA Region IX  
1111 Broadway, Suite 1200  
Oakland, CA. 94607-4052

 **FEMA**

June 15, 2009

Jason Phillips, SJRRP Program Manager  
U. S. Bureau of Reclamation  
2800 Cottage Way, MP-170  
Sacramento, California 95825-1895

Dear Mr. Phillips:

This is in response to your request for comments on the Public Circulation of the Draft Environmental Assessment/Proposed Finding of No Significant Impact Under NEPA and Notice of Availability and Intent to Adopt an Initial Study/Draft Mitigated Negative Declaration Under CEQA for the San Joaquin River Restoration Program Water Year 2010 Interim Flows Project.

**FEMA - 1** Please review the current effective countywide Flood Insurance Rate Maps (FIRMs) for the City (Community Number 060048) and County (Community Number 065029) of Fresno, Maps revised February 18, 2009. Please note that the City and County of Fresno, California are participants in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

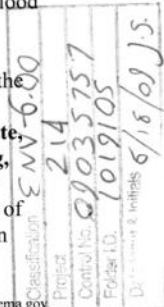
**FEMA - 2**

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.

**FEMA - 3**

- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any **development** must not increase base flood elevation levels. **The term development means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed prior to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

www.fema.gov

  
Classification: E NY-6.00  
Project: 214  
Control No: 09035757  
Folio: 1019105  
Date: 6/18/09  
Initials: JS

Jason Phillips, SJRRP Program Manager  
Page 2  
June 15, 2009

- FEMA - 4**
- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at <http://www.fema.gov/business/nfip/forms.shtm>.

**Please Note:**

- FEMA - 5** Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The City of Fresno floodplain manager can be reached by calling Richard Madrigal, Engineer II, at (559) 621-8079. The Fresno County floodplain manager can be reached by calling Dan Gibbs, at (559) 262-4078.

If you have any questions or concerns, please do not hesitate to call Patricia Rippe of the Mitigation staff at (510) 627-7015.

Sincerely,



Gregor Blackburn, CFM, Branch Chief  
Floodplain Management and Insurance Branch

cc:

Kevin Faulkenberry, DWR, SJRRP Program Manager, Department of Water Resources, Fresno,  
CA  
Richard Madrigal, Engineer II, City of Fresno  
Dan Gibbs, Floodplain Administrator, Fresno County  
Ed Perez, State of California, Department of Water Resources, San Joaquin District  
Patricia Rippe, Floodplanner, DHS/FEMA Region IX  
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

[www.fema.gov](http://www.fema.gov)

## **Responses to Comments from the Federal Emergency Management Agency**

**FEMA-1, -2, -3, -4, and -5:** Comments noted. There is no construction or development associated with the Proposed Action. The flows proposed under the Proposed Action would not change the magnitude of the 100-year flood and would not impact the water surface elevation of the 100-year flood. No revisions to the Draft Environmental Assessment/Initial Study (EA/IS) text were necessary in response to this comment; therefore, the EA/IS text was not modified.

## Chapter 2.0

# State Agency Comments and Responses


This chapter contains copies of comment letters (and any attachments) from the State of California (State) agencies listed in Table 2-1. Each comment in the comment letters was assigned a number, in sequential order (note that some letters may have more than one comment). The numbers were then combined with an abbreviation for the State agency (example: CVDCSP-1).

Responses to the comments follow the comment letters, and are also numbered, corresponding to the numbers assigned in the comment letters. The comment letters and associated responses are sorted alphabetically by abbreviation and appear in the chapter in that order.

**Table 2-1**  
**Comments Received from State Agencies on Environmental Assessment/Initial**  
**Study Water Year 2010 Interim Flows**

<b>Abbreviation</b>	<b>Agency</b>
CVDCSP	Central Valley District California State Parks (Central Valley District)
CSPIR	California State Parks (Information Request)
CVFPB	Central Valley Flood Protection Board
DBW	Department of Boating and Waterways
SJRC	San Joaquin River Conservancy
SWRCB (A)	State Water Resources Control Board
SWRCB (B)	State Water Resources Control Board

## 2.1 Central Valley District California State Parks

	<p>STATE OF CALIFORNIA - RESOURCES AGENCY</p> <p><b>DEPARTMENT OF PARKS AND RECREATION</b> Central Valley District 22078 Broadway Columbia, CA 95310 (209) 536-5930/ FAX (209) 536-2978</p>	<p>Arnold Schwarzenegger, Governor</p> <p>Ruth Coleman, Director</p>																														
<div style="float: right; border: 2px solid red; padding: 5px; margin-bottom: 20px;"><p style="text-align: center; font-weight: bold;">BUREAU OF RECLAMATION OFFICIAL FILE COPY RECEIVED</p><p style="text-align: center; font-weight: bold;">JUL 20 2009</p><table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 33%;">DATE</td><td style="width: 33%;">ACTION</td><td style="width: 33%;">REMARKS</td></tr><tr><td>7/20</td><td>✓</td><td></td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr></table></div> <p>July 14, 2009</p> <p>Mr. Jason Phillips SJRRP Program Manager U.S. Bureau of Reclamation 2800 Cottage Way, MP-170 Sacramento, CA 95825-1898</p> <p>Dear Mr. Phillips:</p> <p>This letter constitutes the comments of the Central Valley District for California State Parks on this Draft Environmental Assessment and Finding of No Significant Impact/Initial Study and Mitigated Negative Declaration. The comments will pertain to two State Park units; Millerton Lake State Recreation Area and Great Valley Grasslands State Park.</p> <p>Millerton Lake State Recreation Area (MLSRA):</p> <p>1. Recreation &amp; Water Elevation Changes (Pg. 4-100)</p> <p style="margin-left: 40px;">a. Affected facilities at Millerton Lake: The average change in elevation between the No-Action and Proposed Action in a "Normal Dry" year over a 12 month period is negative 8.007' per month. However, some months incur a negative change as high as 20' as indicated in the March data. This change will result in impacts to daily maintenance operations as moving hazard buoys, boarding floats, marina and state dock anchors, grading access, etc, will be necessary. Consideration should be given to funding additional maintenance operations to mitigate impacts to recreation.</p> <p style="margin-left: 40px;">Additional considerations for Marina vessels to maintain navigation access to rented slips should be reviewed. Currently marina operations appear to maintain access to slips down to an approximate depth of 485'. However, this elevation limits deep keel vessels to deeper waters within the marina complex, limiting flexibility when marina facilities are at full rental status. Actual interim flow elevations may result in a need to consider remedies to deepen the marina footprint as space in the area is limited in size and depth.</p> <p style="margin-left: 40px;">The average change in elevation between the No-Action and Proposed Action in a "Normal Wet" year over a 12 month period is negative 6.875' per</p>			DATE	ACTION	REMARKS	7/20	✓																									
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CVDCSP - 1	<div style="float: right; border: 2px solid red; padding: 5px; margin-bottom: 20px;"><p>Classification <u>ENV 6.00</u></p><p>214</p><p>Folder ID <u>1047502</u></p><p>Date Input &amp; Initials <u>7-20-09</u> <u>KQ</u></p></div>																															

Mr. Jason Phillips  
July 14, 2009  
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month. However, some months incur a negative change as high as 16.5' as indicated in the November data. This change will result in similar impacts to daily maintenance as described above for "Normal Dry" data.

2. Fisheries & Recreation (Pages 4-48 & 4-52)

- CVDCSP - 2
- a. Largemouth and spotted bass are MLSRA's most popular fishery. They rely on the shallow water habitat known as the littoral zone for spawning. The early spring interim flows may decrease the lake level too early in the spring and there will be no littoral development due to the fluctuating reservoir levels which already create unstable conditions for aquatic production. The variation in lake levels already affects the spawning of bass species and any other variation will drastically affect spawning. Another concern is how the fluctuation in water levels will affect the lake temperatures which will also have an impact on spawning. Water levels decreasing early in the spring will increase the temperature of the lake earlier than historic fluctuations. This may result in higher temperatures in the zones where both bass species spawn and eventually decrease the bass populations in MLSRA. There is also a possibility of increased fishing at MLSRA if anglers increase fishing there as the San Joaquin River changes to a cold water from a warm water fishery. This additional fishing pressure will decrease the population even further.

To mitigate these impacts, it is recommended that a Fishery Management Plan for MLSRA be developed. There are two reasons this plan is needed. The first reason being the possible decrease in bass populations. For there to be any real evidence of an increase or decrease in bass populations and the change in spawning habits a Fisheries Management Plan should be developed. The second reason is, knowing there may be a decrease in population due to loss of shallow water habitat and a possible increase in fishing due to changing the warm water fishery in the river to a cold water fishery, it is recommended that a Fishery Management Plan for MLSRA be developed to maximize warm water fishing opportunities at MLSRA to compensate for lost warm water angling on the San Joaquin River. The management plan would cover shallow water habitat, structural habitat, angling access facilities, etc...Fiscal resources should be set aside to fund the plan, planting, habitat, and facility improvements.

3. Cultural Resources (Pages 4-53 to 4-55)

- CVDCSP - 3
- a. The effects of fluctuating pools on archaeological/heritage sites in the drawdown zone of California reservoirs are varied but evident (Bingham and Schulz 1977; Foster and Bingham 1978; Hildebrand 2003). In general,

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inundation has mostly beneficial effects by depositing a protective layer of silt that reduces erosion, bioturbation, vehicle and fire suppression-related damage, and looting/vandalism. Monitoring and mitigation measures should be proposed for these impacts. The addition of rip rap in a few exposed locations has probably not stopped the damaging effects of pool fluctuation at Millerton Lake since softer underlying dirt layers can continue to slump and erode. But, such site capping or shore armoring measures reduce some damaging effects. Best management practices for cultural resources at Millerton Lake might well be to maintain high pool long enough for a protective silt layer to cap exposed sites, and/or to close whole areas with significant sites when they are exposed. In other words, even granite bedrock mortar features, especially on windward shores, are being destroyed by fluctuating and low pool conditions.

Great Valley Grasslands State Park (GVGSP):

1. Invasive Plant Species (Page 4-32)

CVDCSP - 4

- a. This section discusses the Invasive Vegetation Management Plan for down river areas. The primary focus is on five invasive species. There is potential for more invasive species to be introduced to down river locations. Due to the rising river levels any seed bank that is deposited on the riverbank has the ability to be carried downstream and deposited in other locations. Other invasive species should be considered in this document and in the Invasive Vegetation Management Plan. To mitigate for new infestations of invasive species due to higher water tables it is recommended that monitoring and funding for control methods be proposed.

2. Appendix F (Pages 1-1 to 1-2)

CVDCSP - 5

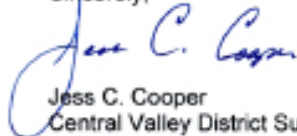
- a. Monitoring and treatment should be conducted for more than 2 years and monitoring should include more species than the indicated five species. GVGSP is one of the few remaining intact examples of Central Valley native grasslands in California, because it has not been determined what and how many different types of invasive species may be introduced to this location we are asking for mapping and monitoring (before and after), funding for control methods, and funding for restoration if newly introduced invasive species significantly impact this sensitive resource.

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3. General Comment:

- CVDCSP - 6
- a. GVGSP already has an existing population of perennial pepperweed (*Lepidium latifolium* L.). Control efforts have been made to eradicate this invasive plant for approximately 4 years. The existing populations are on the riverbanks, levees, or in close proximity to the riverbanks and levees. Because this invasive plant tends to colonize in riparian habitats and grows persistently in wetland habitats our concern here is rising of the groundwater that may create a more viable habitat for this species within this park unit. Raising groundwater levels has the capability to create more wetland habitat throughout GVGSP that may result in the spread of this invasive species and introduce new populations throughout the unit. This concern is also a reason for mapping and monitoring (before and after), an invasive species management plan, and funding for control methods for GVGSP restoration.
- CVDCSP - 7
- b. Rising of groundwater levels is also a concern for GVGSP because we are unaware of what potential problems may occur to this park unit. Will this affect the rare and endangered plant and animal species this park supports? Will groundwater levels impact the vernal pools which support some of these rare and endangered species? What will the impact be on ground squirrels, which create burrows that California tiger salamanders use for dens, due to raising groundwater levels? What will the overall impacts be on GVGSP's flora (native and non-native) due to the increased groundwater levels? To mitigate for any unforeseen potential impacts it is recommended a water monitoring station be installed at GVGSP and a hydrologic study be conducted to determine the impacts of the groundwater levels to rare and endangered plant and animal species at GVGSP.

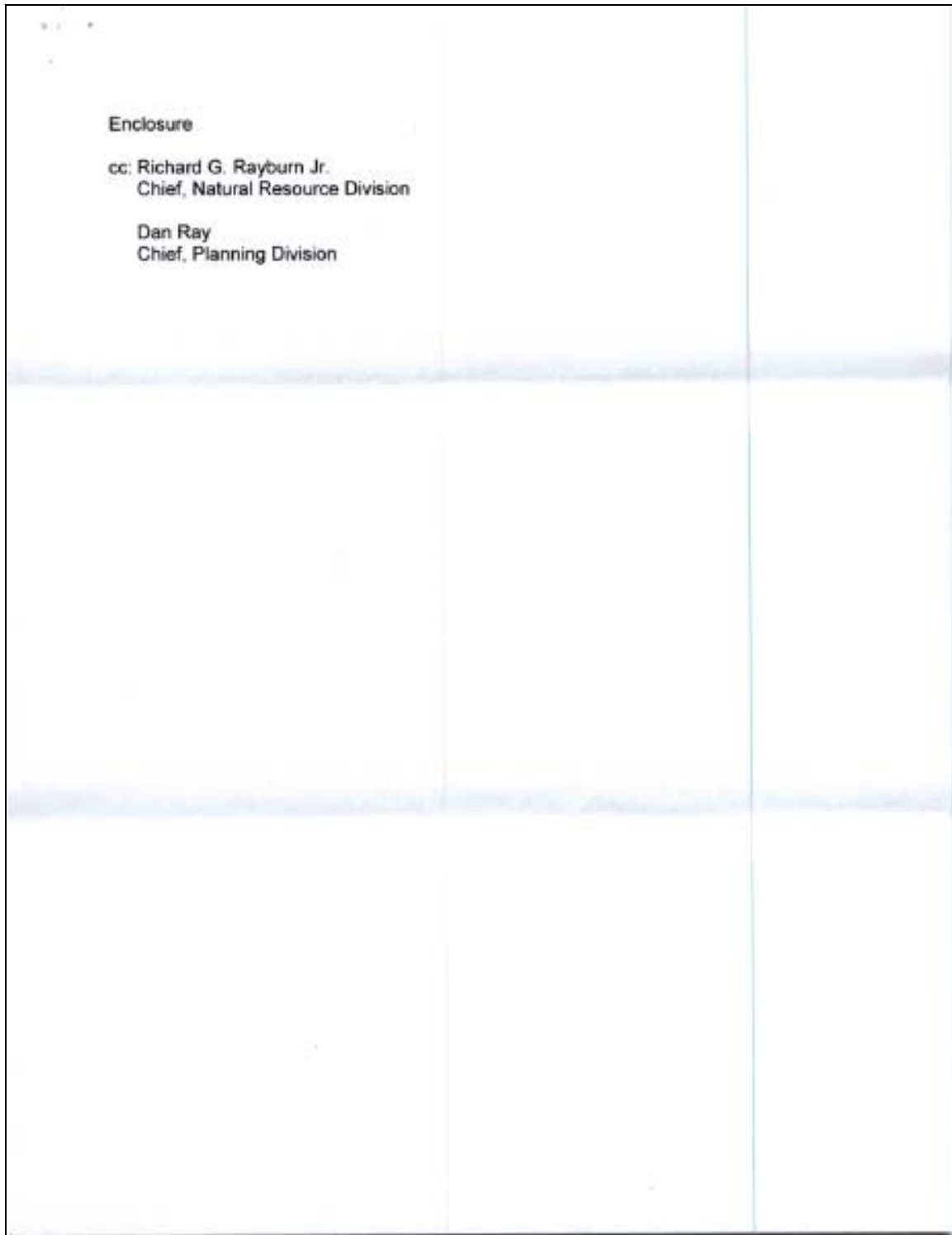
Sincerely,



Jess C. Cooper  
Central Valley District Superintendent

Heather M. Reith  
Environmental Scientist

Linda Dick Bissonnette  
Associate State Archaeologist



## **Responses to Comments from the Central Valley District California State Parks**

**CVDCSP-1:** Millerton Lake is operated as a single-year reservoir, with no annual carryover, and is fully exercised (i.e., filled to minimum storage) in virtually all years; this operational scenario would not change under the Proposed Action. While only minimal variation in the seasonal Millerton Lake water level fluctuation is expected under the Proposed Action, it is likely that the change in facilities operations would change water levels on specific dates. During spring flood operations, the reservoir is operated to specific storage targets and by late summer, the reservoir is typically drawn down as far as possible based on the elevation of diversion facilities (i.e., intakes for the Friant-Kern and Madera canals). Since these limits would not be affected by the Proposed Action, fluctuations in reservoir levels would remain within historical operational scenarios.

During normal-dry and wet years, the range of water surface levels is similar under the Proposed Action and the No-Action Alternative. Under the Proposed Action, during normal-wet years, a potential benefit would be associated with the smaller range of fluctuation in water surface elevations (approximately 60 feet of variation) over the course of Water Year (WY) 2010 compared to the No-Action Alternative (approximately 80 feet of variation). During wet years, the range of water surface levels would be greater under the Proposed Action (approximately 50 feet) compared to the No-Action Alternative (approximately 40 feet), but would be considered less than significant, because it is within the historical variation in surface water elevations at Millerton Lake.

**CVDCSP-2:** No effects on bass population as a result of Interim Flows are anticipated (see Section 4.6 of the Draft Environmental Assessment/Initial Study ((EA/IS)). Additionally, available information suggests that a substantial portion and possibly a majority of fishing on the San Joaquin River below Friant Dam is for cold-water fish (primarily planted trout) rather than the warm-water fish that are also present (Guzman pers. com). No substantial displacement is anticipated of warm-water fishery anglers from the river to Millerton Lake as a result of Interim Flows because there are minimal anticipated changes in water temperature and river stage elevation, and similar reservoir operations (see Section 4.6 of the Draft EA/IS). Therefore, no changes were necessary in response to this comment and a fishery management plan for the Millerton Lake Reservoir is not needed because of implementing the Proposed Action. No revisions to the Draft EA/IS text were necessary in response to this comment; therefore, the EA/IS text was not modified.

**CVDCSP-3:** As described in Section 4.6 of the Draft EA/IS, the fluctuations in Millerton Lake water surface elevations would change minimally under the Proposed Action. Impacts to archaeological sites because of this change in fluctuations would be slightly greater than under the No-Action Alternative and would be less than significant because they would be within the historical fluctuation of water surface elevations at Millerton Lake; therefore, best management practices are not found necessary. No revisions to the Draft EA/IS text were necessary in response to this comment; therefore, the EA/IS text was not modified.

**CVDCSP-4:** Please see response to comment CVDCSP-6 below, which also addresses this comment.

**CVDCSP-5:** Monitoring for 2 years would allow new infestations of invasive plants establishing as a result of the Proposed Action to be documented. Treatment of these infestations could extend for 2 years following removal treatments. Thus, the total period of monitoring and management could extend to 2013, which is more than the 2-year-long period of monitoring and management described in the comment. Please also see the response to comment CVDCSP-6, which is applicable to this comment.

**CVDCSP-6:** As described in Section 4.0 of the Draft EA/IS, the primary potential effect of the Proposed Action on the distribution and abundance of invasive species would result from removing a constraint to plant establishment for species that are dependent on high levels of water availability throughout the growing season. This effect could occur primarily along river and bypass channels that currently convey little or no water for much of the growing season, and also do not have shallow subsurface water available. (The Seepage Monitoring and Management Plan (Appendix D) describes measures to manage groundwater levels in areas near river and bypass channels that could experience changes in shallow, subsurface water availability.) For invasive species in downstream portions of the Restoration Area that are already receiving year-round flow (particularly those that can survive in a variety of habitats), implementing WY 2010 Interim Flows would not cause substantial changes in distribution and abundance. Furthermore, in the case of perennial pepperweed, the species can survive, and is already abundant, in a variety of habitats in and near downstream portions of the Restoration Area. Text in Appendix F of the Final EA/IS was revised to provide clarity.

**CVDCSP-7:** It is not anticipated that endangered plant and animal species in the Great Valley Grasslands State Park (GVGSP) would be affected by WY 2010 Interim Flows. Reclamation is willing to work with the Central Valley District to install groundwater monitoring wells on GVGSP land to support the Seepage Monitoring and Management Plan (see Appendix D). Appendix D to the Final EA/IS has been revised to provide more information on how data collected as part of the plan will be used to support decisions relevant to the release of WY 2010 Interim Flows.

## 2.2 California State Parks (Information Request)

**Gasdick, Alicia**

---

**From:** Reith, Heather [hreith@parks.ca.gov]  
**Sent:** Thursday, July 02, 2009 3:13 PM  
**To:** InterimFlows@restoresjr.net  
**Subject:** Millerton Lake elevation changes

CSPIR-1

Good Afternoon,

I am drafting a comment letter for CA State Parks/Millerton Lake and would like a little information. There is a graph on page 2-6 in the CEQA document and it refers to thousands of acre feet. Is there any way to get a graph showing monthly elevation changes while comparing the no project alternative to project alternative? This will really help us to determine how we comment on this subject.

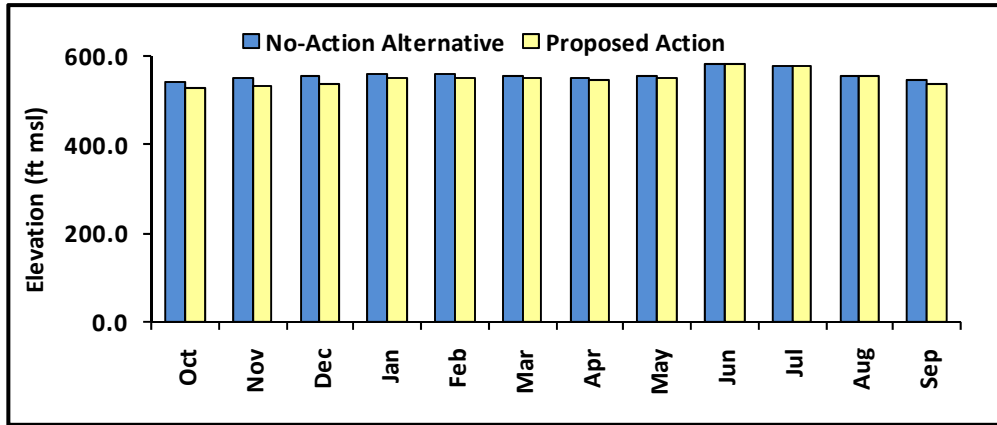
Thank you,

*Heather*

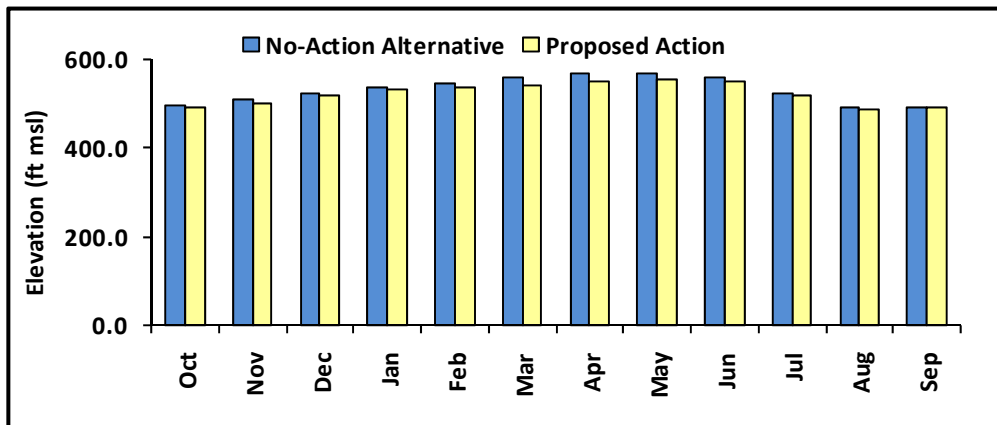
Heather M. Reith  
Environmental Scientist/District Environmental Coordinator  
California State Parks  
Central Valley District  
22708 Broadway Columbia, CA 95310  
M/T (209)536-2887  
Fax #: 536-2978  
W-F (209)795-3488  
Fax # (209) 795-7306

## **Response to Comments from the California State Parks (Information Request)**

**CSPIR-1:** A Word document containing the requested figures was provided in an e-mail response from Alicia Gasdick (U.S. Department of the Interior, Bureau of Reclamation) in response to the e-mail from Heather M. Reith. The figures sent via e-mail show the average monthly Millerton Lake surface water elevations for the No-Action Alternative and Proposed Action. These figures were provided for both wet and normal dry year types (see Figures 2-1 and 2-2). The file sent via e-mail also includes tables showing the average monthly Millerton Lake surface water elevations for the No-Action Alternative and Proposed Action under both water year types (see Tables 2-2 and 2-3 below).



**Figure 2-1.**  
**Averages of Simulated End-of-Month Millerton Lake Elevation in Wet Years**



**Figure 2-2.**  
**Averages of Simulated End-of-Month Millerton Lake Elevation in Normal Dry Years**

**Table 2-2.**  
**Monthly Averages of Simulated End-of-Month**  
**Millerton Lake Elevation (ft msl) - Restoration Year Type – Wet**

Month	Restoration Year Type - Wet	
	No-Action Alternative (ft msl)	Proposed Action (ft msl)
Oct	542.0	529.5
Nov	548.5	532.0
Dec	554.0	539.0
Jan	560.5	551.5
Feb	559.5	552.5
Mar	553.5	552.5
Apr	549.5	546.0
May	557.0	551.5
Jun	580.5	580.0
Jul	577.0	576.0
Aug	557.0	553.5
Sep	544.0	536.5

*Source: Storage from CALSIM II Modeling (Node S18) & Interpolated based on Storage-Elevation Curve*

Note:

Simulation Period: WY 1922 -2003

Key:

WY = Water Year

msl = Mean Sea Level

**Table 2-3.**  
**Monthly Averages of Simulated End-of-Month**  
**Millerton Lake Elevation (ft msl) - Restoration Year Type – Normal Dry**

Month	Restoration Year Type - Normal Dry	
	No-Action Alternative (ft msl)	Proposed Action (ft msl)
Oct	495.5	491.5
Nov	509.0	498.5
Dec	525.5	517.0
Jan	539.0	532.0
Feb	544.0	538.5
Mar	557.5	541.0
Apr	568.5	548.5
May	569.0	556.5
Jun	558.5	549.0
Jul	524.0	517.0
Aug	490.0	487.0
Sep	491.5	490.5

*Source: Storage from CALSIM II Modeling (Node S18) & Interpolated based on Storage-Elevation Curve*

Note:

Simulation Period: WY 1922 -2003

Key:

WY = Water Year

msl = Mean Sea Level

## 2.3 California Department of Boating and Waterways

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**Gasdick, Alicia**

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**From:** Gasdick, Alicia  
**Sent:** Wednesday, June 10, 2009 12:14 PM  
**To:** Gasdick, Alicia  
**Subject:** Fwd: Draft EA and FONSI and Mitigated ND San Joaquin River  
**Attachments:** TEXT.htm; TITLE 14 CALIFORNIA CODE OF REGULATIONS SECTIONS 7000 THROUGH 7007.doc; Mime.822

-----Original Message-----

**Date:** 06/10/2009 01:13 pm -0600 (Wednesday)  
**From:** "Mike Sotelo" <MSOTEL0@dbw.ca.gov>  
**To:** <InterimFlows@restoresjr.net>, <faulkenb@water.ca.gov>  
**CC:** "Denise Peterson" <dpeterson@dbw.ca.gov>, "Marcia Carlock" <MCARLOCK@dbw.ca.gov>, "Margarita Sanchez" <MSANCHEZ@dbw.ca.gov>  
**Subject:** Draft EA and FONSI and Mitigated ND San Joaquin River

Mr Jason Phillips

SJRRP Program Manager

U.S. Bureau of Reclamation

[InterimFlows@restoresjr.net](mailto:InterimFlows@restoresjr.net)

Mr. Kevin Faulkenberry

DWR SJRRP Program Manager

Department of Water Resources

[faulkenb@water.ca.gov](mailto:faulkenb@water.ca.gov)

Thank you for the opportunity to review the "San Joaquin River Restoration Program, Water Year 2010, Draft EA and FONSI/IS and Mitigated ND" . We have reviewed the draft document of the SJR Restoration Program and would like to offer the following comments:

**DBW-1**

Since recreational boating, such as canoeing and kayaking occur on several of these effected reaches of the restoration and since the Recreation Outreach Program, as found on page 2-29 of this document, titled, "Recreation Outreach Program" describes placement of signage at public and private access points and facilities I Reach I, etc., it is recommended that such signs comply with the waterway marker requirements for signs placed to warn or advise boaters of hazardous conditions and alternative locations for boating.

The requirements for placing and notification to the Department of Boating and Waterways are found in the attached document which is a copy of California Code of regulations Title 14, sections 7000, et seq., to be used as a reference source.

Please let us know if you have any questions regarding these comments or these attached regulations we have provided.

Mike Sotelo

Program manager

Regulations Unit

CA Dept. of Boating and Waterways

(916) 263-0787

[msotelo@dbw.ca.gov](mailto:msotelo@dbw.ca.gov)

**TITLE 14 CALIFORNIA CODE OF REGULATIONS SECTIONS 7000 THROUGH 7007**

**Article 6. Waterway Marking System**

**7000. Scope.**

Pursuant to the authority vested in it by Section 659, Harbors and Navigation Code, the Department adopts rules and regulations for a uniform system for marking the State's waters; such rules and regulations to establish, (a) a system of regulatory markers for use on all waters of the State to meet needs not provided for by the U.S. Coast Guard system of navigational aids, and (b) a system of navigational aids for use on the waters of the State not marked by the U.S. Coast Guard and/or not determined to be United States navigable waters; provided that such rules and regulations shall not be in conflict with the markings prescribed by the U.S. Coast Guard.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

**7001. Definition (as used in this article).**

(a) Waterway marker is any device designed to be placed in, on or near the water to convey an official message to a boat operator on matters which may affect health, safety, or well being, except that such devices of the United States or an agency of the United States are excluded from the meaning of this definition.

(b) Regulatory Marker is a waterway marker which has no equivalent in the U.S. Coast Guard system of navigational aids.

(c) State Aid to Navigation is a waterway marker which is the equivalent of a U.S. Coast Guard aid to navigation.

(d) Buoy is any device designed to float which is anchored in the water and which is used to convey a message.

(e) Sign is any device for carrying a message which is attached to another object such as a piling, buoy, structure or the land itself.

(f) A Display Area is the area on a sign or buoy needed for display of a waterway marker symbol.

(g) Symbols are geometric figures such as a diamond, circle, rectangle, used to convey a basic message.

(h) "Department" means the Department of Boating and Waterways.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

**7002. Waterway Markers Used on the Waters of This State Shall Be As Follows.**

**(a) State Aids to Navigation.**

(1) A red buoy or sign shall indicate that side of a channel to be kept to the right of a vessel when entering the channel from the main water body or when proceeding upstream; a green buoy or sign shall indicate that side of a channel to be kept to the left of a vessel when entering the channel from the main water body or when proceeding upstream.

These buoys or signs shall normally be used in pairs and only for the purpose of marking a clearly defined channel.

(2) A red and white vertically striped buoy or sign shall indicate the center

of a navigable waterway.

(3) A red and green horizontally striped buoy or sign shall indicate a junction in the channel, or a wreck or obstruction which may be passed on either side. If the top band is red, the preferred channel is to the left when proceeding upstream or leaving the main water body. If the top band is green the preferred channel is to the right when proceeding upstream or leaving the main water body.

(4) White buoys shall indicate anchorage areas.

(5) The shapes of state aids to navigation shall be compatible with the shapes established by Coast Guard regulations for the equivalent Coast Guard aids to navigation.

(6) When lights are placed on buoys as an aid to navigation, their characteristics shall be compatible with those designated by Federal Regulations for federal aids to navigation. Red lights for this purpose shall be used only on red buoys and green lights only on green buoys.

(b) Regulatory Markers.

(1) A diamond shape of international orange with white center shall indicate danger. The nature of the danger may be indicated by words or well-known abbreviations in black letters inside the diamond shape, or above and/or below it on white background.

(2) A diamond shape of international orange with a cross of the same color within it against a white center without qualifying explanation shall indicate a zone from which all vessels are excluded.

(3) A circle of international orange with white center will indicate a control or restriction. The nature of the control or restriction shall be indicated by words, numerals, and/or well-known abbreviations in black letters inside the circle. Additional explanation may be given above and/or below it in black letters on white background.

(4) A rectangular shape of international orange with white center will indicate information, other than a danger, control or restriction, which may contribute to health, safety or well-being. The message will be presented within the rectangle in black letters.

(c) Letters or Numbers on Waterway Markers.

(1) Numbers, letters or words on a state aid to navigation or regulatory marker shall be placed in a manner to enable them to be clearly visible to an approaching or passing vessel. They shall be block style, well proportioned and as large as the available space permits. Numbers and letters on red or black backgrounds shall be white; numbers and letters on white backgrounds shall be black.

(2) State aids to navigation shall be numbered or lettered for identification. Red buoys and signs marking channels shall be identified with even numbers, and green buoys and signs marking channels shall be identified with odd numbers, the numbers increasing from the main water body or proceeding upstream. Buoys and signs indicating the center of a waterway or a channel junction shall be identified by letters of the alphabet. All numbers and letters used to identify state aids to navigation shall be preceded by the letters "CF."

(d) Reflectorized Material. Where reflectorized materials are used, a red reflector will be used on a red buoy, a green reflector on a green buoy, and white reflectors only will be used on all other waterway markers, except that orange reflectors may be used on orange portions of regulatory markers, and

yellow reflectors may be used on Special Markers, as defined in Section 7002.1.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

**7002.1. Special Markers.**

Special markers are not primarily intended to assist navigation, but are used to indicate a special area or feature (i.e., traffic separation, anchorage areas, dredging, fish net areas, etc.) whose nature may be apparent from reference to a chart or other nautical document.

(a) Aids used to mark these areas or systems will be all yellow.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650, 655.3, and 659, Harbors and Navigation Code.

**7003. Authority to Place Markers.**

(a) No waterway marker shall be placed on, in, or near the waters of the State unless such placement is authorized by the agency or political subdivision of the State having power to give such authorization, except that the provisions of this section shall not apply to private aids to navigation under the jurisdiction of the U.S. Coast Guard.

(b) Such agency or political subdivision of the State will, prior to authorizing placement, obtain the necessary clearances of any federal and state agencies concerned. Nothing herein contained shall be construed to require such prior clearance with the Department.

(c) The agency or political subdivision of the State authorizing the placement of a waterway marker will inform the Department of the following:

(1) Exact location of the marker, expressed in latitude and longitude, or in distance and direction from one or more fixed objects whose precise location is known.

(2) The description and purpose of the marker, including its identifying number, if any, as required by Section 7002(a)(5), above.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

**7004. Maintenance of Waterway Markers.**

Waterway markers shall be maintained in proper condition, or be replaced or removed.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

**7005. Display of Waterway Markers.**

(a) A waterway marker may be displayed as a sign on a fixed support, as a buoy bearing a symbol on its surface, or as a sign mounted on a buoy.

(b) When a buoy is used to carry a symbol on its surface, it will be white, with a band of international orange at the top and a band of international orange above the water line at the bottom.

(c) A buoy whose sole purpose is to carry a sign above it will be marked with three bands of international orange alternating with two bands of white, each band occupying approximately one-fifth of the total area of the buoy above the water line, except where the sign itself carries orange bands; however, nothing in these regulations will be construed to prohibit the

mounting of a sign on a buoy which has been placed for a purpose other than that of carrying a sign.

(d) When symbols are placed on signs, a suitable white background may be used outside the symbol.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

**7006. Specifications for Waterway Markers.**

(a) The size, shape, material, and construction of all markers, both fixed and floating, shall be such as to be observable under normal conditions of visibility at a distance such that the significance of the marker or aid will be recognizable in time to avoid danger.

(b) Waterway markers shall be made of materials which will retain, despite weather and other exposures, the characteristics essential to their basic significance, such as color, shape, legibility and position.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

**7007. Other Waterway Marking Devices.**

(a) Mooring Buoys. In order that mooring buoys shall not be mistaken for aids to navigation or regulatory markers, they shall be white, with a blue band clearly visible above the waterline.

(b) Placement of markers such as mooring buoys and permanent race course markers will be processed in the same manner as waterway markers.

(c) Such markers shall not be of a color, shape, configuration or marking which could result in their confusion with any federal or state aid to navigation or any state regulatory marker, and shall not be placed where they will obstruct navigation, cause confusion, or constitute a hazard.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

## **Response to Comments from the California Department of Boating and Waterways**

**DBW-1:** The text was revised to clarify that signage to advise boaters of hazardous conditions and alternative locations for boating would comply with waterway marker requirements contained in Title 14 of the California Code of Regulations, Sections 7000 through 7007, under the authority of the California Department of Boating and Waterways.

## 2.4 Central Valley Flood Protection Board

STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, GOVERNOR

### CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. LL40  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682  
PERMITS: (916) 574-0685 FAX: (916) 574-0682



July 6, 2009

Mr. Jason Phillips  
SJRRP Program Manager  
U. S. Bureau of Reclamation  
2800 Cottage Way, MP -170  
Sacramento, California 95825-1898

Mr. Kevin Faulkenberry  
DWR SFRRP Program Manager  
Department of Water Resources  
3374 E. Shields Avenue  
Fresno, California 93726

Dear Messrs. Phillips and Faulkenberry:

We have reviewed the Draft Environmental Assessment and Finding of No Significant Impact/Initial Study and Mitigated Negative Declaration document for the San Joaquin River Restoration Program Water Year 2010 Interim Flows Project. These comments are being presented by staff of the Central Valley Flood Protection Board (Board) and do not reflect any decision which may be made by the Board regarding the proposed project in the future.

The Central Valley Flood Protection Board is responsible for flood safety within California's Central Valley and maintains the integrity of the existing flood control system and designated floodways through the Board's regulatory authority. The Board provides assurance to the U.S. Army Corps of Engineers (Corps) to operate and maintain the San Joaquin River and Tributaries Flood Control Project, which includes project levees along the San Joaquin River, the Chowchilla Bypass, Eastside Bypass, Mariposa Bypass, and the appurtenant structures in these bypasses. In turn, the Board assigns the operations and maintenance responsibility of these facilities to the Lower San Joaquin Levee District. These flood control facilities are in the project area and could be impacted by this project.

The following are our comments:

- CVFPB-1 The draft document concludes that the proposed project would not result in any significant impacts to flood management and would have less than significant impacts in flood management operations of the affected flood control project (pp. 4-71 through 4-86). The draft document based these conclusions on the fact that the proposed interim flows are below the design flow capacities of the river channel and bypasses. Even though these flows are below the design flow capacities, interim flows may be in addition to what normally would be present without this project. The draft document should provide additional analysis and evaluation of the potential impacts and mitigation measures of these additional flows to the operations and maintenance of the flood control system and to the system's functioning. For example, the draft document should evaluate the impacts of any additional flows to the existing seepage problems in the levees of the flood control facilities; the potential increased operations and maintenance costs associated with any additional flows; potential increase in vegetation growth in the flood control channels and bypasses; and impacts to existing uses in the flood control channels and bypasses.

Messrs. Phillips and Faulkenberry  
July 6, 2009  
Page 2

The Department of Water Resources may be required to obtain a Board permit for the placement and construction of gauging stations and seepage monitoring wells along the San Joaquin River and bypasses. You must contact the Board's Floodway Protection Section at (916) 574-0609 to determine if a permit will be required.

CVFPB-2 According to the FONSI/ISMND, p. 2-18 "Under existing nonflood conditions, most reaches of the San Joaquin River and the associated bypass system within the Restoration Area convey local agricultural return flows and runoff. Under flood conditions, seepage through levees has been observed. The release of WY 2010 Interim Flows would gradually increase to target flow rates and may be reduced, as necessary, to address seepage concerns."

Although your Seepage Monitoring and Management Plan calls for reduction of flows should adverse seepage impacts be identified, the plan does not identify measures to mitigate for impacts caused by seepage.

CVFPB-3 There is limited information showing impacts to water surface elevations resulting from increasing water flows within the San Joaquin River and Tributaries Project. Prior to increasing flows during high flow months, water surface elevations should be determined using acceptable hydraulic modeling analysis, impacts evaluated, and mitigation measures identified for any increase in water surface elevation resulting from the interim flows. The Board may waive this requirement for the first year interim flows provided it can be demonstrated that the interim flows will not cause a rise in the design water surface elevation in the Eastside Bypass and in the portion of the San Joaquin River protected by project levees.

Thank you for your consideration of these comments. If you have any questions in this matter, please call me at (916) 574-0609, or by e-mail at [dfua@water.ca.gov](mailto:dfua@water.ca.gov), or you may contact James Herota, Staff Environmental Scientist, at (916) 574-0651, or by e-mail at [jherota@water.ca.gov](mailto:jherota@water.ca.gov).

Sincerely,



Dan S. Fua  
Supervising Engineer

cc: Governor's Office of Planning and Research  
State Clearinghouse  
1400 Tenth Street, Room 121  
Sacramento, California 95814

Mr. Reggie Hill, Secretary and Manager  
Lower San Joaquin Levee District  
11704 West Henry Miller Avenue  
Dos Palos, California 93620

## **Response to Comments from the Central Valley Flood Protection Board**

**CVFPB-1:** The Proposed Action was developed using best available information at the time the Draft Environmental Impact Assessment/Initial Study (EA/IS) was prepared, which suggested that flows below 1,300 cubic feet per second (cfs) would not result in seepage-related or other impacts to land adjacent to the river. Additional analysis added to the Final EA/IS as Attachment 6 to Appendix G, “Cursory Evaluation of Flood Impacts from Interim Flows,” supports these findings. Landowner reports, in addition to numerical modeling tools, were the primary tools used to determine the flows that are not anticipated to cause seepage impacts. Additional operations and maintenance costs (including the costs of potential channel vegetation removal) are not an environmental impact that should be analyzed under National Environmental Policy Act/California Environmental Quality Act (NEPA/CEQA), and are not addressed in the Draft EA/IS; these costs will be addressed, as needed, through agreements between the lead agencies and the parties responsible for performing maintenance, as described in the Draft EA/IS. Reclamation and DWR intend to develop an agreement with the Lower San Joaquin Levee District (LSJLD) to address additional operations and maintenance activities as a result of WY 2010 Interim Flows. The Draft EA/IS identifies all other known uses of the flood control channels, and describes how Water Year (WY) 2010 Interim Flows would be assigned priority in relation to these other uses (generally, WY 2010 Interim Flows have lower priority than other existing uses). Installation of gaging stations and seepage monitoring wells is described in separate environmental compliance documents, as appropriate.

**CVFPB-2:** The Seepage Monitoring and Management Plan was revised to clarify that the frequency in the evaluation of monitoring information would be increased when releases from Friant Dam would be expected to result in Interim Flows of 475 cfs or greater in Reach 2B. As stated in CVFPB-1, the Proposed Action was developed based upon the best available information at the time the Draft EA/IS was prepared. Additional analysis added to the Final EA/IS as Attachment 6 to Appendix G, “Cursory Evaluation of Flood Impacts from Interim Flows,” supports these findings. Information provided by individual landowners and by the San Joaquin River Resource Management Coalition as comments to the Draft EA/IS state that flows between 475 and 1,300 cfs also could result in seepage, flooding, and related impacts in some portions of the Restoration Area. The Project Description has been revised to account for this new information. Under the revised Project Description, flows will begin below 475 cfs, and will be gradually and incrementally increased. Monitoring will be implemented concurrent with the release of Interim Flows to provide additional information about system responses to flows. See Section 2.0 of the Final EA/IS for a complete description of the Proposed Action, as revised.

**CVFPB-3:** All WY 2010 Interim Flow releases will be limited by downstream channel capacities of the river or bypasses. See Table 2-4 of the Draft EA/IS, which compares maximum flows under the Proposed Action to the estimated existing channel capacities of all reaches in the Restoration Area. In all cases, the estimated existing channel capacity is equal to or lower than the design capacity, and flows under the Proposed Action are less than the estimated and design channel capacities.

## 2.5 San Joaquin River Conservancy



900.40

June 11, 2009

Sent via email

Mr. Jason Phillips  
SJRRP Program Manager  
U.S. Bureau of Reclamation  
2800 Cottage Way, MP-170  
Sacramento, CA 95825-1898

5469 E. Olive Avenue  
Fresno, California 93727  
Telephone (559) 253-7324  
Fax (559) 456-3194  
[www.sjrc.ca.gov](http://www.sjrc.ca.gov)

### GOVERNING BOARD

The Honorable  
Lee Brand, *Chairman*  
*Councilmember, City of Fresno*

The Honorable  
Susan Anderson, *Vice-Chairman*  
*Fresno County Board of Supervisors*

The Honorable  
Frank Bigelow  
*Madera County Board of Supervisors*

The Honorable  
Gary Svanda  
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*Flood Control District*

Carl Janzen, *Board President*  
*Madera Irrigation District*

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*Department of Fish and Game*

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*Sector Superintendent*  
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*Department of Finance*

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*Citizen Representative*

Melinda S. Marks  
*Executive Officer*

Arnold Schwarzenegger, Governor  
STATE OF CALIFORNIA

Mr. Kevin Faulkenberry  
DWR SJRRP Program Manager  
CA Department of Water Resources  
3374 E. Shields Ave.  
Fresno, CA 93726

Dear Mr. Phillips and Mr. Faulkenberry:

### **Comments on WY 2010 Interim Flows Project, Environmental Assessment and Finding of No Significant Impact/Initial Study and Mitigated Negative Declaration**

The San Joaquin River Conservancy was formed by the California legislature to create a regional partnership among state and local agencies to develop and manage the San Joaquin River Parkway. The planned Parkway will consist of a 22-mile regional wildlife corridor within the river-bottom extending from Friant Dam to Highway 99, with an interconnected trail system and recreational and educational features. The Conservancy owns and manages lands within Reach 1A of the San Joaquin River Restoration Project.

The Conservancy's mission includes habitat conservation and enhancement, and its adopted *San Joaquin River Parkway Master Plan* includes policies supportive of river, floodplain, and riparian habitat restoration; therefore, it supports the efforts of the SJRRP to perform investigations, including the Interim Flows Project, to develop the most feasible and effective river restoration possible.

### **Recreation Impacts**

p. 2-29 line 25 through 2-30 line 9, Recreation Outreach Program

The Conservancy supports the proposed SJRRP recreation outreach program to help address changes in the recreational environment brought on by the interim flows, including changes in recreational access, opportunities, and safety.

Mr. Phillips and Mr. Faulkenberry  
June 11, 2009  
Page 2

In addition to the agencies listed as central to the SJRRP recreation outreach program, the City of Fresno PARCS Department should also be included.

The SJRRP should recognize that in Reach 1 (and when wet, further downstream) the public accesses the river not only at several developed park sites operated by a number of entities, but also wherever the public can reach the river from roads and right-of-ways or by boat. Many people recreating on the river have not entered through a park, have not viewed informational signs, maps, official websites, or brochures, and have no opportunity to encounter park personnel, officials, or landowners who might be able to inform them about river conditions. Blogs and other informal web postings often spread misinformation about places to gather on the river. Park sites that are open have staff presence primarily for baseline facility maintenance.

SJRRP public outreach messages on websites, on signs at facilities and access points, as part of "verbal messages delivered as a part of programs offered by agencies and organizations," and information distributed at public events focused on river recreation are good measures to include, but will be inadequate to inform many members of the community of the changes in the pattern, volume, and hazards of river flows.

Additional measures should be planned to find ways to communicate to target audiences, such as young adults, non-English speaking residents, and those recreating on the river in areas undeveloped for public use.

During the interim flows the public will recreate in additional or alternative areas along the river. They will at times during the proposed project encounter less safe boating and swimming conditions, generate public nuisances (including open fires) in areas that had not been commonly used before, and need help in previously dry river areas that may be less familiar to response agencies.

Key partners for public outreach to help protect public safety will include all emergency rescue, response, and enforcement agencies in all reaches expected to incur expanded boating, fishing, and swimming, including areas undeveloped and unmanaged for public recreation.

SJRC-2 p. 4-96 line 14, through p. 4-97 line 22; and p. 4-98 lines 6 through p. 4-100 line 23

The analysis concludes that a significant increase in recreational use of the river is not expected. However, the SJRRP, response agencies, and parks agencies should anticipate and cooperate to address potential increased hazards associated with recreational use when flows are relatively high. According to the document, the ideal range of flows for boaters will increase in duration, totaling 6 months in February through March and July through November. The public is generally accustomed to very shallow flows on the river during the late spring and summer. Many casual boaters, floaters, and swimmers, including in particular young adults and people accessing the river at undeveloped sites, are attracted to the river in May and June, when the proposed flows would "preclude nearly all boat use" (p. 4-99 line 13) and when proposed flows above 1,500 cfs would be too high "to allow wading for fishing" (p. 4-100 line

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2). It should be noted that many of those wading in the river in the summertime are not experienced anglers, but are children and non-swimmers.

The SJRRP's outreach program described in Section 2 should aggressively provide community-wide as well as on-site information about safe boating, alternative fishing locations, and swimming and wading safety.

#### **Impacts on Invasive Species**

SJRC-3 Appendix F and various sections

Red sesbania noticeably spread downstream and invaded river and pond banks on lands owned by the Conservancy after higher spring flows in the river in 2005 and 2006, among other causes of its spread. The Conservancy supports the SJRRP's efforts to mitigate the potential impacts of the project on the spread of the targeted invasive plants, and anticipates working closely with the SJRRP to allow it to monitor and remove invasives on Conservancy lands.

The Invasive Vegetation Management Plan in Appendix F and references to that plan throughout the document are somewhat inconsistent, making it unclear exactly what actions are included in the proposed project. The document implies a wide range of earthmoving, from potential bulldozing to no earthmoving at all; the possible impacts would vary accordingly.

The section on page 4-53 lines 5 through 6 states, "Substantial earthmoving activities (with bulldozers and backhoes) planned to control the spread of invasive species have the potential to adversely impact cultural resources." One of the following sections, p. 4-54 lines 37 through 39, states, "...the vegetation removal activities associated with the Proposed action would disturb only between 6 and 8 inches of the top soil surface, and no earthmoving equipment would be used ..." [emphasis added]. The Management Plan in Appendix F does not directly describe any planned earthmoving, mentions that backhoes will be available but does not describe their intended use, and does not mention bulldozers. In other sections, such as on page 4-62 line 34, the document states, "Implementing the Proposed Action would not involve any ground disturbing activities."

Appendix F should be amended to clarify the possible extent of earthmoving activities, equipment and techniques, and all sections of the document citing ground surface disturbance and earthmoving should be refined to analyze the potential effects of a consistent description of the proposed activities.

#### **Suggested Corrections**

There are a few factual errors relating to the Conservancy and the San Joaquin River Parkway. These are of minimal importance overall, but might lead to some misperceptions if not corrected:

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SJRC-4 p. 3-9 Figure 3-1

Although the scale of the map makes it difficult to read, the map incorrectly labels lands as part of the San Joaquin River Ecological Reserve under the jurisdiction of the Department of Fish and Game, while these lands are actually managed by the Conservancy. Both are agencies of the State of California. The following corrections should be noted (from Friant Dam downstream):

- The parcel shown in red on the Madera side of the river immediately downstream of Friant Dam labeled, "San Joaquin River Ecological Reserve," is owned and managed by the Conservancy and is not part of the Reserve.
- The unlabeled parcel shown in red at Ledger Island is owned and managed by the Conservancy and is not part of the Reserve.
- The parcels shown on both sides of the river immediately downstream of Highway 41 labeled, "San Joaquin River Ecological Reserve," are owned and managed by the Conservancy and are not part of the Reserve.
- The Conservancy owns many more parcels for conservation and future low-impact recreation than those shown on Figure 2-1. Figure 3-9 shows the Conservancy's properties along with other lands within the San Joaquin River Parkway.

SJRC-5 p. 3-91 lines 1 through 3

It is true the San Joaquin River Parkway—as it is today and as it is planned for the future—is a mosaic of parks, trails, and ecological reserves; however, it is not managed solely by the San Joaquin River Parkway and Conservation Trust (a nonprofit entity). Management of the Parkway is also a mosaic of partner agencies and entities: The Parkway Trust manages and operates two facilities it owns, the Coke Hallowell Center for River Studies and Camp Pashayan. The Conservancy manages 2,541 acres it owns. The Department of Fish and Game owns and operates the ecological reserve and public use facilities at the San Joaquin River Fish Hatchery and Willow Lodge. Other Parkway components are on lands owned and managed by the County of Fresno, Fresno County Office of Education, and City of Fresno.

SJRC-6 p. 3-94

Table 3-26 on page 3-94 lists San Joaquin River Parkway ownership and management entities, with the following suggested corrections: Fresno County Office of Education owns Scout Island; and Islewood Golf Course, on land owned by the San Joaquin River Conservancy, and the DFG San Joaquin River Fish Hatchery could be added to the list.

SJRC-7 p. 4-5 lines 17 through 19

Please note the following edit: "The San Joaquin River and land on both sides of the river from Friant Dam to Highway 99 in the Restoration Area are included in the adopted ~~proposed~~ *San Joaquin River Parkway Master Plan* (San Joaquin River Conservancy 2000).

Mr. Phillips and Mr. Faulkenberry  
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Please feel free to contact me at (559) 253-7324 or [Melinda.Marks@sjrc.ca.gov](mailto:Melinda.Marks@sjrc.ca.gov) if you need additional information about the corrections or any other comments. We look forward to working with the SJRRP throughout implementation of the proposed Interim Flows and the long term river restoration.

Respectfully,



Melinda S. Marks  
Executive Officer

## Response to Comments from the SJR Conservancy

**SJRC-1:** The text was revised in Section 2.0 of the Final Environmental Assessment/Initial Study (EA/IS) to clarify that outreach will target both English-speaking and non-English-speaking residents. Additional measures, such as roving contacts and other methods that agencies may suggest, will be used to target audiences that may not be reached by other means, such as young adults and those recreating on the river in undeveloped areas.

The text was also revised in Section 2.0 of the EA/IS with insertion of "City of Fresno Parks, After School, Recreation, and Community Services Department" following "Fresno County" in the second sentence of the third paragraph of the Recreation Outreach Program section. Lastly, the text was revised in Section 2.0 of the Final EA/IS to clarify that outreach would also extend to emergency response and law enforcement agencies to help continue protection of public safety in response to new hazards and new recreation use patterns that could result from the Proposed Action.

**SJRC-2:** The third paragraph of page 4-99 of the Draft EA/IS was revised in the Final EA/IS to clarify that outreach would also extend to emergency response and law enforcement agencies to help continue protection of public safety in response to new hazards and new recreation use patterns that could result from the Proposed Action.

**SJRC-3:** Appendix F of the Final EA/IS was revised to state that earth-moving equipment would not be used, but that mechanical removal of invasive plants may cause localized disturbance of the upper 4 to 8 inches of soil. Other text was revised, as necessary, to be consistent with the revised Appendix F of the Final EA/IS. Additional revisions were added to clarify that ground-disturbing activities (with hand tools) to control the spread of invasive species have only very limited potential to adversely affect cultural resources. Nonetheless, the Section 106 process will be completed for all areas identified as needing substantial ground-clearing activities for invasive species control. Because the vegetation removal activities associated with the Proposed Action would only disturb between 4 and 8 inches of the top soil surface, and no earth-moving equipment would be used, there would be no impact on unique paleontological resources with implementation of the Proposed Action. Implementing the Proposed Action would not involve any grading or earth-moving activities.


**SJRC-4:** The map was revised as suggested in the comment. As a reference to guide these revisions, a California Department of Fish and Game (DFG) map was used that is available online at <http://www.dfg.ca.gov/lands/er/region4/docs/SanJoaquinRiverER.pdf>

**SJRC-5:** The text was revised to include a new revised map. See response to comment SJRC-4.

**SJRC-6:** The text was revised to clarify the San Joaquin River Conservancy (SJRC) owns and manages 2,541 acres in total, much of which is managed for conservation and future low-impact recreation. In addition, on land owned by SJRC, Islewood Golf Course is operated by a private entity. In addition to the properties listed in the table as providing recreation opportunities, DFG also owns and operates the San Joaquin Hatchery, below Friant Dam, where the public can view and feed trout in the hatchery raceways.

**SJRC-7:** The text was revised as suggested by the comment.

## 2.6 State Water Resources Control Board (A)




**Linda S. Adams**  
Secretary for  
Environmental Protection

### State Water Resources Control Board

---

**Division of Water Rights**  
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
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**Arnold Schwarzenegger**  
Governor

**JUL 20 2009**

**FIRST CLASS AND ELECTRONIC MAIL**

Mr. Jason Phillips, Program Manager  
U.S. Bureau of Reclamation  
San Joaquin River Restoration Program  
2800 Cottage Way, MP-170  
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[Interimflows@restoresjr.net](mailto:Interimflows@restoresjr.net)

Dear Mr. Phillips:

COMMENTS ON ENVIRONMENTAL ASSESSMENT/INITIAL STUDY AND MITIGATED NEGATIVE  
DECLARATION WATER YEAR 2010 INTERIM FLOWS PROJECT

This letter provides comments by the State Water Resources Control Board (State Water Board), Division of Water Rights, on the draft Environmental Assessment, Proposed Finding of No Significant Impact, Initial Study, and Draft Mitigated Negative Declaration (EA/FONSI/IS/MND) for the San Joaquin River Restoration Program's (SJRRP) Water Year 2010 (WY 2010) Interim Flows Project. Reclamation has petitioned the State Water Board for changes to its water rights to implement the interim flow provisions of the Stipulation of Settlement in *Natural Resources Defense Council, et al. v. Kirk Rodgers, et al.* (Settlement). Consequently, the State Water Board is a responsible agency under the California Environmental Quality Act (CEQA) for this project and will consider the EA/FONSI/IS/MND when determining whether or not to approve Reclamation's petitions to change its water rights.


The EA/FONSI/IS/MND explains that Reclamation proposes to temporarily change Friant Dam operations in Water Year 2010 (October 1, 2009, to September 30, 2010) to release Interim Flows from Friant Dam into the San Joaquin River and potentially downstream as far as the Sacramento-San Joaquin Delta. The purpose of the proposed action is to implement the provisions of the Settlement, which requires collecting relevant data on flows, temperature, fish needs, seepage losses, recirculation, recapture, and reuse to guide future releases of Interim Flows and Restoration Flows under the SJRRP. Interim Flows are specified in the Settlement and were approved by the United States District Court in October 2006. Further, the EA/FONSI/IS/MND indicates that the Interim Flows would be recaptured by existing water diversion facilities along the San Joaquin River and/or in the Delta.

Proposed Water Rights Changes

Pursuant to Water Code section 1725 et seq., Reclamation has filed petitions for change involving the transfer of water. Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval. Before approving such a change, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the

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United States Bureau of Reclamation

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- absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725.) Water Code section 1725 defines "consumptively used" to mean "the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion." In addition, the State Water Board must find that the proposed
- SWRCB (A) - 2 temporary change would not injure any legal user of the water during any potential hydrologic condition that the board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (*Id.*, § 1727, subd. (b)(1).) Prior to any approval, the State Water Board also must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (*Id.*, § 1727, subd. (b)(2).)
- Reclamation also has filed a petition for change pursuant to Water Code section 1707. Section 1707, subdivision (a)(1) authorizes changes for the "purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation in, or on, the water." The State Water Board may approve such a change if it determines that the proposed change will not increase the amount of water that the person is entitled to use, will not unreasonably affect any legal user of water, and meets other provisions of law. (Wat. Code, § 1707, subd. (b)(1)-(3).)
- SWRCB (A) - 3
- Regardless of its responsibilities under CEQA, the State Water Board must consider the full range of impacts associated with approving the change petitions in order to fulfill its responsibilities under the public trust doctrine, the Water Code, and the California constitution.
- SWRCB (A) - 3
- Based on our review of the EA/FONSI/IS/MND, State Water Board staff has the following comments:
- Specific Comments
1. On page 3 the EA/FONSI/IS/MND states that "The Proposed Action's effects on the Delta will be consistent with the analysis contained in the US Fish and Wildlife Service (USFWS) 2008 Operations Criteria and Plan (OCAP) Biological Opinion (BO)." The EA/FONSI/IS/MND should also specify whether the project will be consistent with the National Marine Fisheries Service's (NMFS) recent OCAP BO addressing salmonids and green sturgeon. The EA/FONSI/IS/MND should also discuss the relevant regulatory restrictions that may affect this project that are included in the BOs.
- SWRCB (A) - 4
2. On page 1-5, the EA/FONSI/IS/MND states that DWR and Reclamation are providing the EA/FONSI/IS/MND in advance of the issuance of a Programmatic EIR/S for the San Joaquin River Restoration Program, in order to facilitate the State Water Board's review of the petition for transfer pursuant to Water Code section 1725. As noted in the EA/FONSI/IS/MND, the State Water Board may only approve petitions for temporary transfer if the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses. In order to make this determination, additional information concerning the Seepage Monitoring and Management Plan and the Flow Monitoring and Management Plan will be needed. (see specific comments below).
- SWRCB (A) - 5

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3. **SWRCB (A) - 6** On page 2-5, lines 11-12 state that "...resulting flows in each reach, may be higher than the estimated maximums shown in the table depending on a variety of factors..." The document should also explain whether and when flows may actually be lower than expected, depending on actual evaporation, transportation, seepage, and diversion losses. Only the actual additional quantities of water reaching points of redirection will be available for redirection pursuant to any transfer. The document should explain how the quantity of water available for redirection will be calculated and how such redirections will be monitored. The document should include a mitigation measure to assure that the transfer does not result in redirection of water that exceeds the amounts transferred, reduced by evaporation, seepage, and other losses. It should also include specific and clear monitoring and mitigation requirements to assure that there are no impacts to fish, wildlife, and other legal users of water from the project.
4. **SWRCB (A) - 7** On page 2-5, lines 25-26 states "...Delta exports would not change in the Proposed Action compared to the No-Action Alternative." However, Table 4-19 provides estimates of potential changes in Delta exports under the proposed project compared to the no-action alternative. The discussion should be clarified.
5. **SWRCB (A) - 8** Table 2-4 includes infiltration loss estimates only for Reach 2A. However, page 2-23 indicates that infiltration losses are also expected in Reach 4A. Though no estimate is available regarding the potential losses, it should be clearly stated that these infiltration losses will be monitored and will not be available for recapture pursuant to any transfer.
6. **SWRCB (A) - 9** Table 3-8 lists striped bass as both introduced and native. The native listing should be removed.
7. **SWRCB (A) - 10** Section 4.5 regarding potential impacts to fish from the proposed project does not describe the thresholds of significance that were used to determine whether impacts were significant or less than significant. In particular, the document does not adequately describe why an increase in reverse flows by 74% in February of dry years is a less than significant impact. Additional explanation should be provided.
8. **SWRCB (A) - 11** On page 4-67, line 28-32 the document states "Constituents, including pollutants associated with agricultural practices in the region, which may have accumulated in dry segments of Reach 4A, would be flushed from sediments within the river channel through implementation of the Proposed Action. Surface water quality impacts within Reach 3 and Reach 4A under the Proposed Action would be less than significant." However, no information is provided to support the conclusion that water quality impacts would be less than significant. The basis for this conclusion should be provided.
9. **SWRCB (A) - 12** Table 4-19 compares Delta exports under the proposed project with exports that would occur under the no-project alternative. Information should be provided on whether or not these are exports as they would exist under the OCAP BOs.
10. **SWRCB (A) - 13** The Seepage Monitoring and Management Plan for WY 2010 [Appendix D] explains that the Restoration Area has historically experienced groundwater seepage to adjacent lands at elevated flows. However, the document fails to identify at what flows and at which locations in the Restoration Area such seepage and levee instability resulting from through-levee and under-levee seepage has occurred. Section 1.1 (Overview) states

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that "the intention of this plan is to identify direction for seepage monitoring and management, but not to offer details on the design and seepage monitoring activities (e.g., location of groundwater wells, timing, and frequency of levee patrols)". To identify environmental and water quality impacts and determine affects of any levee seepage on groundwater, it is necessary to include additional information on groundwater wells. The Appendix does not provide any technical information on how the monitoring well locations will be established. Particularly, a description of the hydrologic setting, information on what approach will be used to select reliable sampling points, their effectiveness and durability, criteria for placement and number of wells, and the degree of spatial and temporal details considered to meet the goals of the Restoration Program are all missing.

11.  
SWRCB (A) - 14

The EA/FONSI/IS/MND proposes channel modification at some reaches in the San Joaquin River but fails to provide sufficient technical information or supporting evidence that there would be a less than significant impact from the proposed activity. It is possible that deepening of stream channels could alter their interaction with groundwater, potentially impacting both local groundwater levels and in-stream water quality and fish and wildlife habitat. Appendix D does not include technical information and appropriate discussion to address these issues.

12.  
SWRCB (A) - 15

The map included in Appendix D shows only the location of existing wells but does not provide any information on existing and proposed monitoring wells. Technical information on existing and proposed monitoring wells is necessary in collecting representative water quality samples, determining salt aggregation and mobilization, and determining impacts from any lateral levee seepage and infiltration losses of water on groundwater. Without providing available and pertinent information on existing wells and proposed wells (not necessarily design information of wells), it is difficult to understand how the proposed actions would effectively achieve the project goals of collecting representative water quality samples; determining any salt mobilization; measuring impacts on wildlife habitat, groundwater, and impacts on water quality of agriculture and municipal wells on adjacent properties.

13.  
SWRCB (A) - 16

In addition, Appendix D does not provide information on any exploratory wells and test holes, abandoned wells, agriculture drainage wells and their proximity to canals, and water supply wells. Identification and information on any abandoned wells in the Restoration area should be included. Any available information on non-pumping water levels for all wells in the vicinity of the Restoration Area shall be included in the Appendix as it could provide historical information on the hydraulic conditions. Analysis of information may reveal changes in flow paths and serve as a check on the effectiveness of the wells to monitor changing hydrologic conditions. It is important to understand the seasonal changes in water levels and associated chemical concentration variability at the monitored area.

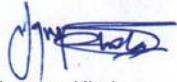
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United States Bureau of Reclamation

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State Water Board staff looks forward to continue working with Reclamation and DWR on their environmental review effort for this project. If you have any questions concerning this matter, please contact Jagroop Khela, Water Resource Control Engineer with the Division of Water Rights at (916) 445-5968, or by e-mail at [Jkhela@waterboards.ca.gov](mailto:Jkhela@waterboards.ca.gov).

Sincerely,



Jagroop Khela  
Water Resource Control Engineer

cc: (First Class Mail only)

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Continued on next page.

Mr. Jason Phillips,  
United States Bureau of Reclamation

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cc: Continued from previous page.

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## **Response to Comments from State Water Resources Control Board (A)**

**SWRCB(A)-1:** Comment noted. No revisions to the Draft Environmental Assessment/Initial Study (EA/IS) text were necessary in response to this comment; therefore, the EA/IS text was not modified.

**SWRCB(A)-2:** Reclamation continues to work closely with the State Water Resources Control Board (SWRCB) to facilitate review of petitions for temporary transfer of water. Completion of the EA/IS is intended to support this review. No revisions to the Draft EA/IS text were necessary in response to this comment; therefore, the EA/IS text was not modified.

**SWRCB(A)-3:** Comment noted. No revisions to the Draft EA/IS text were necessary in response to this comment; therefore, the EA/IS text was not modified.

**SWRCB(A)-4:** Sacramento-San Joaquin Delta diversions would be consistent with all Biological Opinions (BO) in place at the time of pumping, as described in Section 2.0 of the Draft EA/IS. No revisions to the Draft EA/IS text were necessary in response to this comment; therefore, the EA/IS text was not modified.

**SWRCB(A)-5:** See response to RMC-10 (Chapter 4) comment regarding changes to the Seepage and Flow Monitoring and Management Plans.

**SWRCB(A)-6:** The text was revised to clarify that resulting flows in each reach may be different (higher or lower) than the estimated maximums.

As stated in Section 2.0 of the Draft EA/IS, recirculation would be subject to available capacity within Central Valley Project/State Water Project (CVP/SWP) storage and conveyance facilities. Recaptured water would be subject to agreements required to implement actions.

**SWRCB(A)-7:** The text was revised to provide clarity.

**SWRCB(A)-8:** Comment noted. As stated in Section 2.0 of the Draft EA/IS, flows would be monitored at locations identified in Appendix A to provide additional information about system responses to flows. No revisions to the Draft EA/IS text were necessary in response to this comment; therefore, the EA/IS text was not modified.

**SWRCB(A)-9:** The text was revised as suggested and native entry for striped bass removed.

**SWRCB(A)-10:** Criteria used for evaluating the significance of a potential impact of the Proposed Action are given on pages 4-1 and 4-2 and in the table on pages 4-36 and 4-37 of the Draft EA/IS. The use of specific, quantitative thresholds of significance was considered inappropriate because it would suggest a higher level of precision than is available from the modeling results. The 74 percent increase in reverse flows for February of dry years cited in the comment is the average February No-Action to

Proposed Action increase for the 19 dry years in the hydrologic record, and results from a change for February 1949 from -395 to -5,606 cubic feet per second (cfs), a 1,320 percent increase in reverse flow. The second highest percent increase among the 19 years was 13 percent. The change for February 1949 likely resulted from a modeling artifact and does not accurately represent expected changes. Removing the 1949 result gave a mean percent increase of 1 percent for February of dry years. Text has been revised in the Final EA/IS to discuss the outlier.

**SWRCB(A)-11:** The text was revised as suggested to include support for the impact conclusion.

**SWRCB(A)-12:** Modeling results, including Table 4-19 of the Draft EA/IS, do not include the National Marine Fisheries Service (NMFS) 2009 CVP/SWP Operations BO, or the recent salmon BOs. Appendix G of the Final EA/IS has been modified to clarify that the modeling results did not evaluate the NMFS 2009 CVP/SWP Operations BO.

**SWRCB(A)-13:** See response to comment RMC-10 in Chapter 4. The text was revised in Appendix D of the Final EA/IS to provide clarity regarding monitoring during the Water Year (WY) 2010 Interim Flows project. The Monitoring Plan for Physical Parameters, available at <http://restoresjr.net>, includes details on site selection methodology, groundwater level measurement methodology, monitoring data quality assurance/quality control, and proposed groundwater monitoring well locations.

**SWRCB(A)-14:** No channel modifications are identified as part of the Proposed Action. No revisions to the Draft EA/IS text were necessary in response to this comment; therefore, the EA/IS text was not modified.

**SWRCB(A)-15:** General well locations shown in the Draft EA/IS will be finalized based on site access conditions and with input provided by landowners. Seepage management measures are described in Appendix D of the Draft EA/IS. The criteria for application of the measures described in Appendix D of the Draft EA/IS will be developed after wells are installed.

**SWRCB(A)-16:** See response to comment SRWCB-15. The purpose and need of the Proposed Action includes releasing WY 2010 Interim Flows to support data collection, including information to further assess the hydraulic conditions such as vertical and horizontal groundwater gradients, seasonal fluctuations in groundwater levels and associated groundwater quality, and hydrostratigraphy of the monitored areas. Appendix D of the Final EA/IS focuses on monitoring and management of conditions in real time that could lead to seepage. Although informative, the Seepage Monitoring and Management Plan is not intended to provide comprehensive documentation of all existing and historical well information.

## 2.7 State Water Resources Control Board (B)

**Gasdick, Alicia**

---

**From:** Jagroop Khela [JKhela@waterboards.ca.gov]  
**Sent:** Friday, July 03, 2009 11:14 AM  
**To:** Interimflows@restoresjr.net; faulkenb@water.ca.gov  
**Subject:** San Joaquin River Restoration Pgm- Initial Study and Mitigated Negative Declaration

SWRCB (B) -1

Dear Mr. Phillips and Mr. Faulkenberry-

We received the subject draft environmental assessment document for the San Joaquin River Restoration Program, Interim Flows Project. The Division staff is in process of reviewing this document and would provide comments if any. It appears that comments are due by July 6, 2009 and we request one additional week extension (i.e., July 13, 2009) to complete our review and draft our comments (if any).

Please, let me know if it is acceptable.

Sincerely,

Jagroop S. Khela, MS, MBA  
WRC Engineer, Bay-Delta Unit  
Division of Water Rights  
State Water Resources Control Board  
1001 I Street, Sacramento, CA 95812-2815  
(916) 445-5968

**Response to Comments from State Water Resources Control Board (B)**

**SWRCB(B)-1:** A 14-day extension of the public review period was provided.

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